

AMENDED IN SENATE SEPTEMBER 2, 2005

SENATE BILL

No. 227

Introduced by Senator Lowenthal

February 15, 2005

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~~An act to amend Section 798.56 of the Civil Code, relating to mobilehomes. An act relating to solid waste.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 227, as amended, Lowenthal. ~~Mobilehome residency. Solid waste handling.~~

*Existing law authorizes the board of supervisors of a county to collect or contract for the collection, or both, of garbage, waste, refuse, rubbish, offal, trimmings, or other refuse matter under those terms and conditions that the board of supervisors may prescribe by resolution or ordinance. Existing law authorizes a county, city, district, or local government agency to determine, among other things, whether solid waste handling services are to be provided by nonexclusive, partially exclusive, or wholly exclusive franchise, contract, license, permit, or otherwise.*

*This bill would declare the intent of the Legislature to enact subsequent legislation to address the application of local franchise agreements and related fees, for solid waste handling services that are provided to state agencies and schools.*

~~Existing law regulates terms and conditions of tenancies in mobilehome parks. Existing law permits a mobilehome tenancy to be terminated only for one or more of specified reasons, including conduct by a homeowner or resident that constitutes a substantial annoyance to other homeowners or residents.~~

~~This bill would permit a mobilehome tenancy to be terminated for the use or threatened use of force, willful threats, or menacing conduct~~

~~by a homeowner or resident constituting a course of conduct, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. It is the intent of the Legislature to enact~~  
2     ~~subsequent legislation to address the application of local~~  
3     ~~franchise agreements and related fees for solid waste handling~~  
4     ~~services that are provided to state agencies and schools.~~

5     ~~SECTION 1. Section 798.56 of the Civil Code is amended to~~  
6     ~~read:~~

7     ~~798.56. A tenancy shall be terminated by the management~~  
8     ~~only for one or more of the following reasons:~~

9     ~~(a) Failure of the homeowner or resident to comply with a~~  
10    ~~local ordinance or state law or regulation relating to~~  
11    ~~mobilehomes within a reasonable time after the homeowner~~  
12    ~~receives a notice of noncompliance from the appropriate~~  
13    ~~governmental agency.~~

14    ~~(b) Conduct by the homeowner or resident, upon the park~~  
15    ~~premises, that constitutes a substantial annoyance to other~~  
16    ~~homeowners or residents.~~

17    ~~(c) (1) Conviction of the homeowner or resident for~~  
18    ~~prostitution, for a violation of subdivision (d) of Section 243,~~  
19    ~~paragraph (2) of subdivision (a), or subdivision (b), of Section~~  
20    ~~245, Section 288, or Section 451, of the Penal Code, or a felony~~  
21    ~~controlled substance offense, if the act resulting in the conviction~~  
22    ~~was committed anywhere on the premises of the mobilehome~~  
23    ~~park, including, but not limited to, within the homeowner's~~  
24    ~~mobilehome.~~

25    ~~(2) However the tenancy may not be terminated for the reason~~  
26    ~~specified in this subdivision if the person convicted of the~~  
27    ~~offense has permanently vacated, and does not subsequently~~  
28    ~~reoccupy, the mobilehome.~~

29    ~~(d) Failure of the homeowner or resident to comply with a~~  
30    ~~reasonable rule or regulation of the park that is part of the rental~~  
31    ~~agreement or any amendment thereto.~~

32    ~~No act or omission of the homeowner or resident shall~~  
33    ~~constitute a failure to comply with a reasonable rule or regulation~~

1 ~~unless and until the management has given the homeowner~~  
2 ~~written notice of the alleged rule or regulation violation and the~~  
3 ~~homeowner or resident has failed to adhere to the rule or~~  
4 ~~regulation within seven days. However, if a homeowner has been~~  
5 ~~given a written notice of an alleged violation of the same rule or~~  
6 ~~regulation on three or more occasions within a 12-month period~~  
7 ~~after the homeowner or resident has violated that rule or~~  
8 ~~regulation, no written notice shall be required for a subsequent~~  
9 ~~violation of the same rule or regulation.~~

10 Nothing in this subdivision shall relieve the management from  
11 its obligation to demonstrate that a rule or regulation has in fact  
12 been violated.

13 ~~(e) (1) Nonpayment of rent, utility charges, or reasonable~~  
14 ~~incidental service charges; provided that the amount due has been~~  
15 ~~unpaid for a period of at least five days from its due date, and~~  
16 ~~provided that the homeowner shall be given a three-day written~~  
17 ~~notice subsequent to that five-day period to pay the amount due~~  
18 ~~or to vacate the tenancy. For purposes of this subdivision, the~~  
19 ~~five-day period does not include the date the payment is due. The~~  
20 ~~three-day written notice shall be given to the homeowner in the~~  
21 ~~manner prescribed by Section 1162 of the Code of Civil~~  
22 ~~Procedure. A copy of this notice shall be sent to the persons or~~  
23 ~~entities specified in subdivision (b) of Section 798.55 within 10~~  
24 ~~days after notice is delivered to the homeowner. If the~~  
25 ~~homeowner cures the default, the notice need not be sent. The~~  
26 ~~notice may be given at the same time as the 60 days' notice~~  
27 ~~required for termination of the tenancy. A three-day notice given~~  
28 ~~pursuant to this subdivision shall contain the following~~  
29 ~~provisions printed in at least 12-point boldface type at the top of~~  
30 ~~the notice, with the appropriate number written in the blank:~~

31 -

32 ~~“Warning: This notice is the (insert number) three-day notice~~  
33 ~~for nonpayment of rent, utility charges, or other reasonable~~  
34 ~~incidental services that has been served upon you in the last 12~~  
35 ~~months. Pursuant to Civil Code Section 798.56 (e) (5), if you~~  
36 ~~have been given a three-day notice to either pay rent, utility~~  
37 ~~charges, or other reasonable incidental services or to vacate your~~  
38 ~~tenancy on three or more occasions within a 12-month period,~~  
39 ~~management is not required to give you a further three-day~~

1 period to pay rent or vacate the tenancy before your tenancy can  
2 be terminated.”

3 (2) ~~Payment by the homeowner prior to the expiration of the~~  
4 ~~three-day notice period shall cure a default under this~~  
5 ~~subdivision. If the homeowner does not pay prior to the~~  
6 ~~expiration of the three-day notice period, the homeowner shall~~  
7 ~~remain liable for all payments due up until the time the tenancy is~~  
8 ~~vacated.~~

9 (3) ~~Payment by the legal owner, as defined in Section 18005.8~~  
10 ~~of the Health and Safety Code, any junior lienholder, as defined~~  
11 ~~in Section 18005.3 of the Health and Safety Code, or the~~  
12 ~~registered owner, as defined in Section 18009.5 of the Health and~~  
13 ~~Safety Code, if other than the homeowner, on behalf of the~~  
14 ~~homeowner prior to the expiration of 30 calendar days following~~  
15 ~~the mailing of the notice to the legal owner, each junior~~  
16 ~~lienholder, and the registered owner provided in subdivision (b)~~  
17 ~~of Section 798.55, shall cure a default under this subdivision with~~  
18 ~~respect to that payment.~~

19 (4) ~~Cure of a default of rent, utility charges, or reasonable~~  
20 ~~incidental service charges by the legal owner, any junior~~  
21 ~~lienholder, or the registered owner, if other than the homeowner,~~  
22 ~~as provided by this subdivision, may not be exercised more than~~  
23 ~~twice during a 12-month period.~~

24 (5) ~~If a homeowner has been given a three-day notice to pay~~  
25 ~~the amount due or to vacate the tenancy on three or more~~  
26 ~~occasions within the preceding 12-month period and each notice~~  
27 ~~includes the provisions specified in paragraph (1), no written~~  
28 ~~three-day notice shall be required in the case of a subsequent~~  
29 ~~nonpayment of rent, utility charges, or reasonable incidental~~  
30 ~~service charges.~~

31 In that event, the management shall give written notice to the  
32 homeowner in the manner prescribed by Section 1162 of the  
33 Code of Civil Procedure to remove the mobilehome from the  
34 park within a period of not less than 60 days, which period shall  
35 be specified in the notice. A copy of this notice shall be sent to  
36 the legal owner, each junior lienholder, and the registered owner  
37 of the mobilehome, if other than the homeowner, as specified in  
38 paragraph (b) of Section 798.55, by certified or registered mail,  
39 return receipt requested, within 10 days after notice is sent to the  
40 homeowner.

~~(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:~~

~~(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.~~

~~(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.~~

~~(C) The legal owner, junior lienholder or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.~~

~~If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.~~

~~(f) Condemnation of the park.~~

~~(g) Change of use of the park or any portion thereof, provided:~~

~~(1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.~~

~~(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.~~

~~If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.~~

1     ~~(3) The management gives each proposed homeowner written~~  
2     ~~notice thereof prior to the inception of his or her tenancy that the~~  
3     ~~management is requesting a change of use before local~~  
4     ~~governmental bodies or that a change of use request has been~~  
5     ~~granted.~~

6     ~~(4) The notice requirements for termination of tenancy set~~  
7     ~~forth in Sections 798.56 and 798.57 shall be followed if the~~  
8     ~~proposed change actually occurs.~~

9     ~~(5) A notice of a proposed change of use given prior to~~  
10    ~~January 1, 1980, that conforms to the requirements in effect at~~  
11    ~~that time shall be valid. The requirements for a notice of a~~  
12    ~~proposed change of use imposed by this subdivision shall be~~  
13    ~~governed by the law in effect at the time the notice was given.~~

14    ~~(h) Use or threatened use of force, willful threats, or menacing~~  
15    ~~conduct by the homeowner or resident constituting a course of~~  
16    ~~conduct against any person that would create an apprehension of~~  
17    ~~harm in a reasonable person.~~

18    ~~(i) The report required pursuant to subdivisions (b), (i), and (j)~~  
19    ~~of Section 65863.7 of the Government Code shall be given to the~~  
20    ~~homeowners or residents at the same time that notice is required~~  
21    ~~pursuant to subdivision (g) of this section.~~

22    ~~(j) For purposes of this section, "financial institution" means a~~  
23    ~~state or national bank, state or federal savings and loan~~  
24    ~~association or credit union, or similar organization, and~~  
25    ~~mobilehome dealer as defined in Section 18002.6 of the Health~~  
26    ~~and Safety Code or any other organization that, as part of its~~  
27    ~~usual course of business, originates, owns, or provides loan~~  
28    ~~servicing for loans secured by a mobilehome.~~